IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

CRP.No. 84 of 2005(A)

OPEA.233/2002 of ADDL.D.C. & ADDL.MACT,ALAPPUZHA.

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REVN. PETITIONER: 1ST RESPONDENT:

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, NANGIARKULANGARA KAYAMKULAM,
REP. BY ITS MANAGER.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS: PETITIONER:

DESELA KUMARI, AGED 32 YEARS,
KANKALIL THEKKETHIL, BHARANIKAVU P.O.,
KATTANAM VILLAGE.

BY

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

HARUN-UL-RASHID, J.

C.R.P No. 84 of 2005

Dated this the 7th day of November 2007

ORDER

1. This Civil Revision Petition is preferred by the revision petitioner against an order dated 3.4.2004 in O.P (EA) No.233/2002 on the file of the Court of Additional District Judge, Alappuzha. The court below has applied the principle laid down by this Court in the decision reported in **Kumba Amma Vs.K.S.E.B (2000 (1) KLT 542)** whereby a direction has been given by this Court how to fix the annuity. In the light of the decision reported in **K.S.E.B. Vs. Livisha (2007 (3) KLT page 1)** the Apex Court held that each case requires independent consideration and it further held that,

> *" The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land could also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are*

concerned the same would also depend upon the facts and circumstances of each case"

2. In the light of this Court's decision the matter has to be considered by the Court below and an opportunity has to be given to both sides to convincingly establish regarding the actual loss that is caused to the party and therefore the order under challenge is set aside and the matter is remitted back to the court below for fresh consideration after permiting both sides to adduce evidence in support of their respective contentions.

3. Since the matter is relating to an order of 2002 I further direct the court below to hear and dispose of the matter within a period of six months from the date of receipt of a copy of this order

The C.R.P is disposed of accordingly.

HARUN-UL-RASHID, JUDGE

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